

170

REGULAR

NUMBER: 239.4

TITLE: **AN ORDINANCE OF THE CITY OF MILPITAS AMENDING TITLE XI
CHAPTER 16 SECTIONS 16-2, 16-6, AND 16-16 OF THE MILPITAS
MUNICIPAL CODE (STORMWATER AND URBAN RUNOFF
POLLUTION CONTROL)**

HISTORY: This ordinance was introduced at a meeting of the City Council of the City of
Milpitas on August 16, 2005, by motion of Councilmember _____, and
was adopted at a meeting of said Council on _____, upon motion of
Councilmember _____ by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Steven T. Mattas, City Attorney

ORDAINING CLAUSE:

THE CITY COUNCIL OF THE CITY OF MILPITAS DOES ORDAIN AS FOLLOWS:

SECTION 1.

CEQA. This ordinance is exempt from the provisions of Chapter 3 (commencing with Section 21100) of Division 13 of the Public Resources Code pursuant to CEQA Guidelines Section 15308 as an action that assures the maintenance, restoration, enhancement or protection of the environment where the regulatory process involves procedures for protection of the environment.

SECTION 2

Amendment to Section XI-16-2. Title XI, Chapter 16, Section 2 of the Milpitas Municipal Code is hereby amended to read as follows:

XI-16-2 Definitions

For the purposes of this chapter, the following words and phrases shall have the meaning given to them in this section. Words and phrases not defined in this chapter shall have the definitions set forth in the permit or by the regulations implementing the National Pollutant Discharge Elimination System, Clean Water Act section 402, and division 7 of the California Water Code, as they currently exist or may be amended.

(a) "Applicable Materials" means all materials used in industrial or commercial establishments that are stored outdoors, that may be exposed to stormwater, and that have the reasonable potential to degrade the quality of runoff from the site. These include, but are not limited to, grease, garbage, and all materials containing cadmium, chromium, copper, lead, mercury, nickel, selenium, silver, and zinc, which are pollutants that have specifically been identified as known to contribute to impairment of applicable water quality standards.

(b) "City" means and includes all the territory lying within the municipal boundaries of the City of Milpitas as existing as of the date of adoption of this ordinance, plus all territory which may be added thereto during the effective term of this ordinance.

(c) "Discharge," when used as a verb, means to allow pollutants to directly or indirectly enter storm water, or to allow storm water or non-storm water to directly or indirectly enter the storm drain system from an activity or operation. When used as a noun, "discharge" means the pollutants, storm water and/or non-storm water that is discharged.

(d) "Group 1 Project" means any private or public, commercial, industrial or residential development that results in adding or replacing an impervious surface area of one acre (43,560 square feet) or more for which a privately-sponsored development application has been deemed complete or, with respect to public projects, for which funding has been committed on or after October 15, 2003. It includes, but is not limited to, non-absorbent rooftops, paved or covered patios, driveways, parking lots, paved walkways, compacted soil or rock, and private streets. Excluded from this category are the following developments:

(i) public sidewalks, replaced impervious surface areas for public roadways, bicycle lanes, trails, bridge accessories, guardrails, and landscape features.

(ii) Routine maintenance and repair that includes roof or exterior surface replacement, pavement resurfacing, repaving and road pavement structural section rehabilitation within the existing footprint, and any other reconstruction work within a public street or road right-of-way where both sides of that right-of-way are developed.

(iii) Construction of one single family home that is not part of a larger common plan of development, with the incorporation of appropriate pollutant source control and design measures, and using landscaping to appropriately treat runoff from roof and house-associated impervious surfaces (e.g., runoff from roofs, patios, driveways, sidewalks, and similar surfaces).

(e) "Group 2A Project" is in all ways the same as the Group 1 Project definition, (except with respect to implementation of Hydromodification Plan requirements), but the size threshold of impervious area is reduced from 1 acre (43,560 square feet) to 10,000 square feet, the privately-sponsored development application has been deemed complete or, with respect to a public project, the funding has been committed, on or after October 6, 2005, and the project is one of the following land use categories:

- Gas stations;
- Auto wrecking yards;
- Loading docks and surface parking lots containing more than 10,000 square feet or more of impervious surface area; and
- Vehicle or equipment maintenance areas (including washing and repair), outdoor handling or storage of waste or hazardous materials, outdoor manufacturing area(s), outdoor food handling or processing, outdoor animal care, outdoor horticultural activities, and various other industrial and commercial uses where potential pollutant loading cannot be satisfactorily mitigated through other post-construction source control and site design practices.

(f) "Group 2B Project" is in all ways the same as the Group 2A Project definition, but applies to all projects with impervious area of 10,000 square feet, and applies to all privately-sponsored development applications that have been deemed complete or, with respect to public projects, for which funding has been committed, on or after August 15, 2006.

(g) "Hydromodification Management Plan" or HMP means the plan designated by NPDES Permit No. CAS029718, Amendment Revision Order No. 01-119, for stormwater controls to manage applicable increases in peak runoff flow and increased runoff volume. HMP shall only apply to Group 1 Projects. h) "Permanent Stormwater Pollution Prevention Measures" means any combination of source control measures, site design measures, and/or post-construction stormwater treatment measures that reduce stormwater pollution to the maximum extent practicable as required by NPDES Permit No. CAS029718 as amended by Order No. 01-119 issued by the California Regional Water Quality Control Board, San Francisco Bay Region.

(i) "Redevelopment Project", for the purpose of this ordinance, is any project where one or more existing buildings are removed and replaced with a new building(s), or that has one or more newly constructed additional building(s).

(j) "Storm Drain" means the system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned and operated by the City and designed or used for collecting or conveying storm water, and which is not used for collecting or conveying sewage.

(k) "Storm Water" or "Stormwater" means water that originates from atmospheric moisture (rainfall or snowmelt) and that falls onto land, water or other surfaces. Without any change in meaning, this term may be spelled or written as one word or as two separate words.

(l) "Urban Runoff" means surface water flow produced by storm and non-storm events. Non-storm events include flow from residential, commercial and/or industrial activities including the use of potable and non-potable water.

SECTION 2.

Amendment to Section XI-16-6. Title XI, Chapter 16, Section 6 of the Milpitas Municipal Code is hereby amended to read as follows:

XI-16-6 Permanent Stormwater Pollution Prevention Measures Required

(a) All Group 1 Projects not participating in a waiver and/or alternative compliance program pursuant to Section XI-16-6 (e) shall include Permanent Stormwater Pollution Prevention Measures in order to reduce water quality impacts of urban runoff from the entire project site for the life of the project.

(1) Group 1 Projects that result in an increase of, or replacement of, fifty (50) percent or more of the impervious surface of a previously existing development, and the existing development was not subject to stormwater treatment measures, shall include Permanent Stormwater Pollution Prevention Measures in the design to sufficiently reduce water quality impacts of urban runoff from the entire site for the life of the project.

(2) Group 1 Projects that result in an increase of, or replacement of, less than fifty (50) percent of the impervious surface of a previously existing development, and the existing development was not subject to stormwater treatment measures, shall include Permanent Stormwater Pollution Prevention Measures in the design to sufficiently reduce water quality impacts of urban runoff from the affected portion of the site for the life of the project.

(b) Group 2A Projects shall be required to implement Group 1 provisions XI-16-6 (a), XI-16-6 (a) (1) and XI-16-6 (a) (2) beginning October 6, 2005.

(c) Group 2B Projects shall be required to implement Group 2A provisions beginning August 15, 2006.

(d) Permanent Stormwater Pollution Prevention Measures must be incorporated into all applicable plan documents. All plan documents and construction activities are subject to inspection and approval by the City.

(e) No final building or occupancy permit shall be issued without the written certification of the City Manager or his or her designee that the requirements of this chapter have been satisfied. Such certification shall be in the form prescribed by the City and shall not be issued without payment of all applicable fees, if any, which may be imposed for administration of this Chapter.

(f) Waiver and/or Alternative Compliance. Any applicant may request to participate in a waiver and/or alternative compliance program in accordance with any policies, procedures and regulations adopted pursuant to the authority granted in Section XI-16-3.

(g) Group 1 Projects shall manage increases in peak runoff flow and increased runoff volume by implementing a Hydromodification Management Plan (HMP) in accordance with any policies, procedures and regulations adopted pursuant to the authority granted in Section IX-16-3.

(h) Nothing in this section shall prohibit the City from requiring stormwater treatment measures for private or public, commercial, industrial or residential projects that result in the creation of less than 10,000 square feet of new impervious surface.

SECTION 3.

Amendment to Section XI-16-16. Title XI, Chapter 16, Section 16 of the Milpitas Municipal Code is hereby amended to read as follows:

XI-16-16 Connection Fees

Prior to connection or discharge to any storm drain facility from a new development or a redevelopment project (directly or indirectly), connectors shall pay City a fee for connection/discharge to the City's storm drain system as follows:

- A. \$1,100 per parcel for single family medium density with parcel size equal or smaller than 8,710 square feet (1/5 acre).
- B. \$1,916 per parcel for single family low density, with parcel size between 8,711 and 43,560 square feet (between 1/5 and 1 acre).
- C. \$3,594 per parcel for single family with parcel size between 43,561 and 174,240 square feet (between 1 acre and 4 acres).
- D. \$4,792 per parcel for single family with parcel size between 174,241 and 392,040 (between 4 and 9 acres).
- E. \$6,469 per parcel for single family with parcel size greater than 392,040 square feet (9 acres).
- F. \$16,771 per acre for multi-family developments.
- G. \$21,562 per acre for all others (such as commercial, industrial, institutional, or mixed use sites).
- H. \$7,187 per acre for schools (with athletic fields), otherwise consider as institutional.
- I. \$4,792 per acre for parks.

The purpose of the fee imposed by this section is to fund facilities (whether presently in existence or not) necessary to provide storm drain services, and revenues derived from the fee imposed by this section shall be used solely for that purpose.

SECTION 4.

EFFECTIVE DATE; PUBLICATION. This ordinance shall take effect 30 days following is passage, and prior to the expiration of 15 days from the passage thereof shall be published at least once in the Milpitas Post, a newspaper of general circulation, published and circulated in the City of Milpitas, County of Santa Clara, thenceforth and thereafter the same shall be in full force and effect.

SECTION 5.

SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more section, subsection, sentence, clause or phrase be declared invalid.